1 February 2018

Original: English

Expert Group to Conduct a Comprehensive Study on Cybercrime
Vienna, 3–5 April 2018

Annotated provisional agenda

Provisional agenda

1. Organizational matters:
   (a) Opening of the meeting;
   (b) Adoption of the agenda;
   (c) Adoption of the Chair's proposal for the workplan of the Expert Group for the period 2018–2021.
2. Legislation and frameworks.
3. Criminalization.
4. Other matters.
5. Adoption of the report.

Annotations

1. Organizational matters

(a) Opening of the meeting

The fourth meeting of the Expert Group to Conduct a Comprehensive Study on Cybercrime will be opened on Tuesday, 3 April 2018, at 10 a.m.

(b) Adoption of the agenda and organization of work

In its resolution 65/230, the General Assembly endorsed the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World,[1] and requested the Commission on Crime Prevention and Criminal Justice to establish, in line with paragraph 42 of the Salvador Declaration, an open-ended intergovernmental expert group, to conduct a comprehensive study of the problem of cybercrime and responses to it by Member States, the international community and the private sector, including the exchange of information on national legislation, best practices, technical assistance and international cooperation, with a view to examining options to

[1] General Assembly resolution 65/230, annex.

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strengthen existing and to propose new national and international legal or other responses to cybercrime.

The first meeting of the Expert Group was held in Vienna from 17 to 21 January 2011. At that meeting, the Expert Group reviewed and adopted a collection of topics and a methodology for the study (E/CN.15/2011/19, annexes I and II).

The second meeting of the Expert Group was held from 25 to 28 February 2013. At that meeting, the Expert Group took note of the draft comprehensive study of the problem of cybercrime and responses to it by Member States, the international community and the private sector, as prepared by the United Nations Office on Drugs and Crime (UNODC) with the guidance of the Expert Group, pursuant to the mandate contained in General Assembly resolution 65/230, and the collection of topics for consideration within a comprehensive study of the impact of and response to cybercrime and the methodology for that study, as adopted at the first meeting of the Expert Group. The report on that meeting is contained in document UNODC/CCPCJ/EG.4/2013/3.

In its resolution 22/7, the Commission on Crime Prevention and Criminal Justice took note of the draft comprehensive study on cybercrime prepared by UNODC under the auspices of the Expert Group and the discussion on its content at the second meeting of the Expert Group, held in Vienna from 25 to 28 February 2013, at which diverse views had been expressed regarding the content, findings and options presented in the study, and requested the Expert Group, with the assistance of the Secretariat, as appropriate, to continue its work towards fulfilling its mandate.

Pursuant to Commission resolution 22/7, in 2015 and 2016 the Secretariat commissioned the translation of the draft comprehensive study on cybercrime into all six official languages of the United Nations[2] and disseminated it to Member States for their comments. The comments were reproduced as received on the website of UNODC.[3]

In the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, adopted by the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice and endorsed by the General Assembly in its resolution 70/174, Member States noted the activities of the Expert Group, the international community and the private sector, and invited the Commission to consider recommending that the Expert Group continue, based on its work, to exchange information on national legislation, best practices, technical assistance and international cooperation, with a view to examining options to strengthen existing responses and to propose new national and international legal or other responses to cybercrime.

The third meeting of the Expert Group was held from 10 to 13 April 2017. At that meeting, the Expert Group considered, inter alia, the adoption of the summaries by the Rapporteur of deliberations at the first and second meetings of the Expert Group, the draft comprehensive study of the problem of cybercrime and comments thereto, and the way forward on the draft study, and exchanged information on national legislation, best practices, technical assistance and international cooperation. The report on that meeting is contained in document UNODC/CCPCJ/EG.4/2017/4.

In its resolution 26/4, adopted at its twenty-sixth session in May 2017, the Commission on Crime Prevention and Criminal Justice requested the Expert Group to continue its work and, in so doing, to hold periodic meetings and function as the platform for further discussion on substantive issues concerning cybercrime, keeping pace with its evolving trends, and in line with the Salvador Declaration and the Doha

[2] Available at www.unodc.org/unodc/en/cybercrime/egm-on-cybercrime.html.

[3] Available at www.unodc.org/unodc/en/organized-crime/comments-to-the-comprehensive-study-on-cybercrime.html.

Declaration, and requested the Expert Group to continue to exchange information on national legislation, best practices, technical assistance and international cooperation, with a view to examining options to strengthen existing responses and propose new national and international legal or other responses to cybercrime.

In the same resolution, the Commission decided that the Expert Group would dedicate its future meetings to examining, in a structured manner, each of the main issues dealt with in chapters three through eight of the study (as listed below), without prejudice to other issues included in the mandate of the Expert Group, taking into account, as appropriate, contributions received pursuant to Commission resolution 22/7 and the deliberations of the previous meetings of the Expert Group:

- Chapter 3: Legislation and frameworks
- Chapter 4: Criminalization
- Chapter 5: Law enforcement and investigations
- Chapter 6: Electronic evidence and criminal justice
- Chapter 7: International cooperation (including sovereignty, jurisdiction and international cooperation, formal international cooperation, informal international cooperation, and extraterritorial evidence)
- Chapter 8: Prevention

The dates for the fourth meeting of the Expert Group were decided by the extended Bureau by silence procedure on 23 January 2018, and confirmed at its meeting on 26 January 2018. The provisional agenda for the meeting was agreed upon by the extended Bureau at its meeting held on 26 January 2018.

The proposed organization of work (see annex) was prepared in accordance with the financial statement on Commission resolution 26/4 (E/CN.15/2017/CRP.5, annex VII) in order to enable the Expert Group to perform its mandated functions within the time and according to the conference services available to it. The resources available will permit the holding of six plenary meetings over the course of three days, with interpretation in the six official languages of the United Nations.

(c) Adoption of the Chair's proposal for the workplan of the Expert Group for the period 2018–2021

Under agenda item 1 (c), the Expert Group may wish to consider the adoption of the Chair's proposal for the workplan of the Expert Group for the period 2018–2021, as approved by the extended Bureau at its meeting on 26 January 2018.

Documentation

Conference room paper containing the chair's proposal for the workplan for the period 2018–2021 of the Expert Group to Conduct a Comprehensive Study on Cybercrime, based on Commission resolution 26/4, as approved by the extended Bureau of the Expert Group at its meeting on 26 January 2018 (UNODC/CCPCJ/EG.4/2018/CRP.1).

2. Legislation and frameworks

Under agenda item 2, the Expert Group may wish to discuss issues related to legislation and frameworks related to cybercrime.

At the third meeting of the Expert Group, it was widely noted that the threat of cybercrime continued to grow and was linked to transnational organized crime and other serious crimes, terrorism and radicalization, among other things. In the light of that challenge, most speakers emphasized that national legal frameworks and the capability to enforce the law were crucial to achieve effective and strengthened regional and international cooperation to combat cybercrime.[4]

[4] See UNODC/CCPCJ/EG.4/2017/4, para. 14.

Legislation relevant to cybercrime may address, inter alia, a wide range of issues including the following: criminalization of particular conducts (see the annotations under item 3, below); procedural powers; issues of criminal jurisdiction; admissibility of electronic evidence; the data protection responsibilities of electronic service providers; and international cooperation in cybercrime-related criminal matters. Apart from criminal law (both substantive and procedural), possible legal responses may also include the use of civil and administrative law, as well as regulatory and constitutional, or rights-based, frameworks.

The Expert Group may wish to facilitate further discussion and the exchange of information on national trends, challenges and best practices regarding legislation and frameworks related to cybercrime.

Documentation

There is no document under this agenda item. However, in accordance with the above-mentioned Chair's proposal for the workplan of the Expert Group for the period 2018–2021,[5] the Secretariat invited Member States to provide, in writing, comments, good practices, new information, national efforts and recommendations related to agenda items 2 and 3, for compilation and dissemination as received on the website of the Expert Group (www.unodc.org/unodc/en/organized-crime/open-ended-intergovernmental-expert-group-to-conduct-a-comprehensive-study-of-the-problem-of-cybercrime2018.html).

3. Criminalization

Under agenda item 3, the Expert Group may wish to discuss issues pertaining to the criminalization of cybercrime.

At its second meeting, the Expert Group discussed, among others, the degree of diversity in cybercrime legislation, especially with regard to criminalization. Most experts agreed that, in general terms, similar approaches to criminalization could be useful in the sense that legal instruments or model laws could thus be helpful to legislators developing or modernizing laws, and would also help in bridging gaps when dealing with transnational cases. However, it was noted that Member States were sovereign and often took different approaches to criminal justice matters.[6]

The Expert Group may wish to facilitate further discussion and the exchange of information on national trends, challenges and best practices in criminalization.

Documentation

There is no document under this agenda item. As mentioned above, the compiled comments, good practices, new information, national efforts and recommendations related to agenda items 2 and 3 are available on the website of the Expert Group (www.unodc.org/unodc/en/organized-crime/open-ended-intergovernmental-expert-group-to-conduct-a-comprehensive-study-of-the-problem-of-cybercrime2018.html).

4. Other matters

As no issues to be raised under agenda item 4 have come to the attention of the Secretariat, no documentation regarding the item is currently foreseen.

5. Adoption of the report

Under agenda item 5, a report on the meeting of the Expert Group will be adopted. In accordance with the workplan of the Expert Group,[7] the Rapporteur, with the necessary assistance of the Secretariat and based on the discussions and deliberations, will prepare a list of preliminary conclusions and recommendations suggested by

[5] See annotation 4 of the workplan.

[6] See UNODC/CCPCJ/EG.4/2017/3, para. 24.

[7] See annotation 5 of the workplan.

Member States, which should be precise and focus on strengthening practical responses to cybercrime. The list, as a compilation of suggestions made by Member States, will be included in the summary report of the meeting for further discussion at the stock-taking meeting of the Expert Group, to be convened not later than 2021.

Annex

Proposed organization of work

Date	*Time*	*Item*	*Title or description*
Tuesday, 3 April	10 a.m.-1 p.m.	1 (a)	Opening of the meeting
		1 (b)	Adoption of the agenda
		1 (c)	Adoption of the Chair's proposal for the workplan of the Expert Group for the period 2018–2021
	3-6 p.m.	1 (c)	Adoption of the Chair's proposal (*continued*)
		2	Legislation and frameworks
Wednesday, 4 April	10 a.m.-1 p.m.	2	Legislation and frameworks (*continued*)
	3-6 p.m.	2	Legislation and frameworks (*continued*)
		3	Criminalization
Thursday, 5 April	10 a.m.-1 p.m.	3	Criminalization (*continued*)
	3-6 p.m.	4	Other matters
		5	Adoption of the report